

# Azerbaijan

*Capital:* Baku  
*Population:* 8.6 million  
*GNI/capita:* US\$6,570

The data above was provided by The World Bank, *World Bank Indicators 2009*.

## Nations in Transit Ratings and Averaged Scores

	1999-2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Electoral Process	5.50	5.75	5.75	5.75	6.00	6.25	6.50	6.50	6.50	6.75
Civil Society	4.75	4.50	4.50	4.25	4.50	4.75	5.00	5.25	5.25	5.50
Independent Media	5.50	5.75	5.50	5.50	5.75	6.00	6.00	6.25	6.25	6.75
Governance*	6.25	6.25	6.00	5.75	5.75	n/a	n/a	n/a	n/a	n/a
National Democratic Governance	n/a	n/a	n/a	n/a	n/a	6.00	6.00	6.00	6.00	6.25
Local Democratic Governance	n/a	n/a	n/a	n/a	n/a	6.00	6.00	6.00	6.00	6.25
Judicial Framework and Independence	5.50	5.25	5.25	5.25	5.50	5.75	5.75	5.75	5.75	5.75
Corruption	6.00	6.25	6.25	6.25	6.25	6.25	6.25	6.25	6.25	6.50
<b>Democracy Score</b>	<b>5.58</b>	<b>5.63</b>	<b>5.54</b>	<b>5.46</b>	<b>5.63</b>	<b>5.86</b>	<b>5.93</b>	<b>6.00</b>	<b>6.00</b>	<b>6.25</b>

\* Starting with the 2005 edition, Freedom House introduced separate analysis and ratings for national democratic governance and local democratic governance to provide readers with more detailed and nuanced analysis of these two important subjects.

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. The opinions expressed in this report are those of the author(s). The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

## EXECUTIVE SUMMARY

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Azerbaijan had a brief period of independence between 1918 and 1920, and regained independence when the Soviet Union collapsed in 1991. The transition was complicated by the war with Armenia and separatist Armenians over the Nagorno-Karabakh enclave. The conflict resulted in massive social problems and an estimated one million internally displaced persons. All sides signed a cease-fire agreement in May 1994, shortly after President Heydar Aliyev came to power. During his 10-year term in office, Aliyev strengthened his hold on the country through an enormous concentration of power in the presidency. In October 2003, the presidency changed hands when Heydar Aliyev's son, Ilham Aliyev, gained the office following controversial elections that were deemed not free and fair by the OSCE. The 2005 parliamentary elections, including the reruns in May 2006, did not meet a number of international standards. The presidential elections of October 2008 marked another step back for Azerbaijan.

Azerbaijan's energy resources are considerable, and have attracted interest from foreign oil companies and the governments that back them. A significant portion of energy revenues has gone into the military sector. However, some funds have been allocated to improve the situation of internally displaced persons.

**National Democratic Governance.** In 2008, civil society institutions weakened while presidential powers were exceedingly strengthened. The President and his administration exercise full control over the legislative and judiciary branches even though separation of powers is envisaged by the constitution. The presidential administration exercised even greater powers in the run-up to and after the uncompetitive 2008 presidential elections; according to official results, Ilham Aliyev received the support of nearly 89 percent of those who voted. The country's leadership began preparations to hold a referendum in 2009 that would aim at lifting a constitutional ban on a third term presidency, which, according to many experts, may lead to a life long presidency for Ilham Aliyev. *Due to the intensified autocratic trends in the country as evidenced by the increasing dominance of the executive branch, Azerbaijan's rating for national democratic governance worsens from 6.00 to 6.25.*

**Electoral Process.** The Constitution of Azerbaijan states that the people of Azerbaijan are the source of power, and elections are held regularly in the country. However, since the adoption of the constitution in 1995 not a single election has been assessed as free and fair, including the October 15, 2008 presidential elections. In December 2008, the ruling party introduced draft constitution changes eliminating limits for consecutive presidential terms. The move is widely believed to pave the way for lifelong presidency of the incumbent head of state,

Ilham Aliyev. No established opposition parties are represented in commissions at any level. *Due to the failure of authorities to provide even minimal conditions for a meaningful reflection of the will of the people, Azerbaijan's electoral process rating worsens from 6.50 to 6.75.*

**Civil Society.** The capacity of the national nongovernmental organization (NGO) community overall is low. In addition to problems stemming from the NGO community itself the sector faces obstacles in the form of social apathy and a hostile government expressed in legal barriers and tax policy. Approximately 1,400 NGOs are registered with only 150 functioning, and roughly 10 to 15 active and effective NGOs. Recently, public awareness of NGOs rose considerably, though they are still perceived as anti-governmental, especially those receiving foreign grants. The state is represented by authorities as the single entity entitled to define the public good, and all other views are perceived as expressions of political opposition to the government. Consultations with the NGO sector are perceived by the government as weakening state authority. Civil society groups failed to serve as watchdogs during the presidential elections of 2008. *Azerbaijan's civil society rating worsened in 2008 from 5.25 to 5.50 owing to the increasingly hostile attitude of the authorities towards civil society and the decline in civil activity in the country.*

**Independent Media.** At least four journalists jailed for their professional activity remain in Azerbaijani prisons. The government exercises extensive control over electronic media and silences all alternative voices. The authorities stopped broadcasts of RFE/RL, BBC, and Voice of America on local frequencies at the end of the year. Although Azerbaijani legislators have passed several laws to enhance freedom of information in recent years, implementation of the law remains problematic. Despite numerous calls by the international and local community, the country's parliament has failed to decriminalize defamation. Libel cases are considered within the criminal code, which leads to severe punishment of journalists in libel cases. Journalists were subject to physical attacks throughout 2008. *The country's independent media rating worsens from 6.25 to 6.75 due to the elimination of pluralism in electronic media and the increased number of attacks on journalists.*

**Local Democratic Governance.** Conflicts stemming from executive appointments at the municipal level continued in 2008. Municipalities could not exercise their authority as provided in the European Charter of Local Self-Government, which Azerbaijan ratified in 2001, while presidential appointees ran district budgets and led infrastructure projects in constituencies. Despite numerous calls by the Council of Europe, Azerbaijan refused to fulfill its obligations under the Charter, which include creating a separate municipality in the capital city, Baku, and the executive branch eliminating duplication of municipal responsibilities. *Azerbaijan's rating for local democratic governance worsens from 6.00 to 6.25 owing to the increasing dominance of the central government in local affairs.*

**Judicial Framework and Independence.** Although the law of the Azerbaijan Republic provides legislative ground for an independent judiciary, in practice judges do not function independently of the executive branch. In 2008 the judiciary remained corrupt and inefficient as the executive branch exerted a strong influence over it. Despite ongoing salary increases for judges, credible allegations that judges routinely accept bribes continued to surface. Judges, acting on the instruction of the executive branch, sentenced detainees to jail within hours of their arrest without providing access to a lawyer. *The country's rating for judicial framework and independence stagnates at 5.75 as no significant improvements have been made towards guaranteeing independence of courts and rule of law.*

**Corruption.** Corruption is one of the main problems hindering democratic gains in Azerbaijan. Attempts to improve the situation on a legislative level fail at the implementation phase as the state agencies entitled to conduct anticorruption activity are believed to be among the most corrupt agencies in the country. *The country's rating on corruption worsens from 6.25 to 6.50 due to lack of transparency in state funded projects and political will in fighting corruption.*

**Outlook for 2009.** Despite holding vast energy resources, Azerbaijan will also be subject to the impact of the global economic crisis. Unemployment growth and social tension may lead to an increase of political activity. However, the government has cemented its rule by lifting a ban from third term presidency, which may lead to the life long presidency of Ilham Aliyev. The government will continue to silence critical voices in the country and ignore the international community's calls for improvements.

# MAIN REPORT

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## National Democratic Governance

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
n/a	n/a	n/a	n/a	n/a	6.00	6.00	6.00	6.00	6.25

Azerbaijan has a centralized presidential system, with an executive branch comprising the president, the Office of the President, the prime minister, and the Cabinet of Ministers. The executive branch, especially the president and his office, enjoy significant authority over the legislative and judicial branches. Separation of powers is not properly defined in the constitution; while the powers of the Parliament are limited to the competences outlined in the constitution, the president's responsibilities include any sphere that does not fall into the competence of the Parliament or judiciary. The government's authority does not extend over the full territory of the country owing to the occupation of 16 percent of its territory by Armenia.

Most citizens are uninformed regarding procedural legitimacy and accept the governing authorities as a matter of fact, which was reflected in the low public interest in the October 2008 presidential elections. The official declaration of the results of the 2008 presidential elections implied that President Ilham Aliyev enjoys support from 89 percent of the 76 percent of registered voters who took part in the voting, although the elections were not assessed as free and fair. The executive continued to consolidate its hold on power following the election, and in December, the ruling party's proposal to hold a referendum to lift a third-term presidency ban was approved by Parliament, paving the way for a lifelong presidency for Ilham Aliyev.

The constitution enables the president to appoint and dismiss ministers without the consent of the Parliament; formal parliamentary consent is required only for the appointment of the prime minister. The Cabinet of Ministers is not accountable to the Parliament, as Parliamentary elections have no effect on the composition of the Cabinet. Furthermore, the resignation of the prime minister does not lead to the resignation of the Cabinet.

On October 28, 2008, the Parliament of Azerbaijan approved without discussion the president's nominee for prime minister, Artur Rasizade, who has held the position since 1996. On October 31, Aliyev signed a decree forming a government of 20 ministers and 4 deputy prime ministers. The only change from the previous cabinet was the appointment of Shahin Mustafayev, a former deputy minister of taxes and vice president of SOCAR (State Oil Company of the Azerbaijani Republic) for economic affairs, to the post of minister of economic development.

The president appoints all judges, including those serving in the Constitutional Court, Supreme Court, and appellate courts, as well as the judges of lower

courts and their chairs. He enjoys substantial influence over the judiciary and uses it to his political advantage. In the summer of 2008, the Parliament passed a law allowing judges of the Constitutional Court to continue to serve until new judges were appointed. The terms of six of the nine Constitutional Court judges expired later that summer, but they continued to serve throughout the year. In October, the same group of judges confirmed the presidential election results. On December 24, they approved a proposal for a constitutional referendum to lift the term limit on consecutive presidential terms.

The authorities may arbitrarily refuse access to information; as of yet, no mechanism has been set up to enforce the Law on Freedom of Information, guaranteeing citizens and media access to government information. The law calls for an ombudsman on information. Although six years have passed since promulgation of the law, this office has not been established.

Civil service is politicized, as documented by the large number of civil servants belonging to the New Azerbaijan Party (YAP). The careers of civil servants depend more on political loyalty than on professional skills. Civil service itself is not clearly defined in Azerbaijan, creating many cases involving conflict of interest.

The constitution is silent on the issue of providing democratic oversight and civilian authority over the military and security services: It neither explicitly provides it nor explicitly prevents it. The law provides judicial oversight of military and security services, but in practice, given the lack of judicial independence, it is often ineffective. The number of abuse and suicide cases in the military sparked criticism over the management of the military forces despite increased funding from the budget. In practice, the military is closed to public scrutiny and the defense ministry is largely staffed by members of the military.

The economy is not free from government control since it is dominated by the shadow monopolies of high-ranking governmental officials. Some governmental bodies officially exercise the function of both a business corporation and a supervisory administrative body. In 2008, the government enjoyed the right to induce a private property owner to sell his or her property “if necessitated by public need,” in line with amendments made to the civil code in December 2007. Throughout the year, cases of seizure of private property for public need with little or no compensation to the owners were reported in the media.

#### Electoral Process

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
5.50	5.75	5.75	5.75	6.00	6.25	6.50	6.50	6.50	6.75

The Constitution of Azerbaijan states that the citizens of Azerbaijan are the source of power, and elections are held regularly in the country. However, not a single election thus far has been judged free and fair, including the October 15 presidential

elections wherein incumbent president Ilham Aliyev received 89 percent of the vote with a 76 percent voter turnout.<sup>1</sup> Azerbaijan's electoral laws have been amended several times to take into account the recommendations of the Venice Commission of the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE)/Office for Democratic Institutions and Human Rights (ODIHR); but legislation still allows the ruling party to control election commissions.

Since 2005, traditional opposition parties have not been part of the election commissions at any level. In summer 2008, the Parliament of Azerbaijan rejected the Venice Commission's recommendation<sup>2</sup> to establish parity in the election commissions, leading to an opposition boycott of the elections in protest of violations of freedom of assembly and lack of representation in election commissions. Opposition parties are also restricted from holding public meetings, rallies, and conferences during non-election periods, and larger opposition parties have been deprived of their offices in the capital, Baku, and in other districts.

A number of technical improvements were made prior to the 2008 presidential election in terms of voter registration and vote counting, yet the election process as a whole lacked real alternatives. Candidates were not active during the campaigning period. Local media paid minimum attention to the presidential election debates; the incumbent president enjoyed the most airtime, despite the fact that he, as the leading candidate, refused to participate in such debates. Some media reported that the ruling party's support and administrative resources had been used to collect the 40,000 signatures needed to register the opposition candidates running against President Aliyev. These candidates were believed to be only nominally oppositional, especially as two duly registered candidates eventually obtained fewer votes than the number of signatures in support of their registration as presidential candidates.

The largest and most experienced domestic election observation group, the Election Monitoring Center, was deregistered in March 2008, requiring the organization to reregister its monitors as independent observers. Such local, independent observers stated that the election "took place in an uncompetitive and no-alternative environment, voter participation was artificially increased, and it did not reflect the true will of the Azerbaijani people."<sup>3</sup>

The OSCE/ODIHR *Election Observation Mission Final Report* stated that the 2008 election took place in a peaceful environment, but was characterized by a lack of robust competition, a lack of vibrant political discourse, and a restrictive media environment. Thus, the election did not reflect some of the principles necessary for a meaningful and pluralistic democratic election. It also expressed concern that "some voters were subject to pressure to attend rallies or to vote and may not have been able to make a free choice in this respect." Furthermore, a number of media reports confirmed "the existence of hierarchical networks of people, often from the same workplace or institution, overseen by local authorities and/or election commissions and in some cases directly linked to YAP [ruling party], which were supposedly responsible for increasing voter turnout."<sup>4</sup>

## Civil Society

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
4.75	4.50	4.50	4.25	4.50	4.75	5.00	5.25	5.25	5.50

Approximately 1,400 nongovernmental organizations (NGOs) are registered in Azerbaijan, and of these, around 150 are active, but only 10 to 15 are strong and visible. Despite the low capacity of national NGOs to play a meaningful role in society, public awareness of NGOs has risen in recent years. Social apathy and public distrust of NGOs is widespread. Most NGOs in Azerbaijan are concentrated in Baku, are poorly organized, and are likely not sustainable in the long term. Only a few NGOs have offices and sound financial resources; many depend on the personal connections and capabilities of one strong leader.

In 2008, the Ministry of Justice continued to create obstacles for registering local and international NGOs. A number of new organizations were denied registration, including a branch of the Washington, DC-based International Center for Journalists, while registration of the National Democratic Institute has been pending since 2003. The Independent Writers Union is also among the organizations that failed to register in 2008.

A state NGO support fund was established in 2008 to decrease local NGO dependence on foreign donors. Members of the NGO Council, under the president's supervision, allocated these small grants to a number of NGOs, but the selection process was criticized as lacking transparency. Despite this initial step toward cooperation, many state officials perceive nongovernmental organizations as anti-governmental, especially those that receive foreign grants, and consultation with NGOs in general as weakening state authority. Therefore, the government favors service-oriented NGOs rather than watchdogs and advocacy organizations.

NGOs are excluded from many areas of work where they might have a positive impact through service provision, advocacy, think tanks, and the like. There is almost no demand from the government for public policy notes and analysis prepared by independent think tanks, and the government does not stimulate development of local think tanks. On rare occasions, NGOs are involved in advocacy efforts; however, these contacts are based mainly on individual relations and are not systematic. Advocacy groups in Azerbaijan may influence the decision-making process in individual government agencies, but only if the issue does not challenge the agenda and the corporative interest of the ruling elite. In rare cases, NGO representatives succeed in proposing draft laws.

GONGOs (government-organized NGOs) are a new phenomenon appearing in media reports in 2008. A number of these organizations conducted "election observation" or carried out polling activity aimed at supporting government-announced election results or the popularity of government actions. These GONGOs joined the Association for Civil Society Development in Azerbaijan (AVCIYA) as observers of the October 2008 elections and declared the elections without violation

or flaw. Members of AVCIYA have refused to disclose their funding sources, and independent media reports refer to them as “progovernmental” organizations.

The education system is formally free of political influence and propaganda, yet there is strong, observable pressure on teachers, university staff, and students to join YAP. Likewise, students are strongly discouraged from affiliating with opposition political parties. The concentration of external donors on NGO building has led to negligence of membership-based civil society groups such as trade unions.

### Independent Media

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
5.50	5.75	5.50	5.50	5.75	6.00	6.00	6.25	6.25	6.75

Although Azerbaijani legislators have passed several laws to enhance freedom of information in recent years, implementing these laws remains a problem. Despite numerous calls from the international and local community, the country’s Parliament failed to decriminalize defamation. Libel cases are considered within the criminal code, which leads to severe punishment of journalists under libel cases. The majority of lawsuits against media in 2008 were filed by public officials. In all cases, the burden of proof was put on journalists despite the fact that criminal law puts burden of proof on the accuser.

In the first half of 2008, according to the semi-annual report of the Media Rights Institute, media rights watchdogs registered 22 cases of physical and psychological attacks on journalists, twice as many as the first half of the previous year. National Security Ministry officials attacked Agil Khalil, a reporter from the newspaper *Azadliq*, on February 22, 2008, while he photographed them taking part in an illegal land transaction. On March 13, following publication of the photos, Khalil was stabbed in the chest and critically wounded. A few days later, investigators began pressuring him to pin the stabbing on other journalists and to say the attacks were linked to his homosexuality.

At the end of 2007, as part of an amnesty program, the government pardoned six journalists. However, three of these journalists—Ganimat Zahid, Mirza Sakit Zahidov, and Eynulla Fatullayev—remain in prison. On January 21, 2008, an investigative journalist, Mushvig Huseynov, was sentenced by Azerbaijani courts to six years’ imprisonment on a bribery charge. Some human rights organizations believe the case was made up to silence Huseynov, who was reporting on corruption. Ganimat Zahid, the editor of *Azadliq*, is serving a four-year prison term for hooliganism charges and lost his appeals in 2008 as well as the court case against prison authorities who confiscated the manuscript of a book he was writing in prison. Prison officials said they confiscated the manuscript because it included propaganda against the state. Satire writer Sakit Zahidov has reportedly been subject to intimidation in prison as he continues to write works of satire while in confinement. He has been refused medical help several times.

Print media in Azerbaijan lacks objectivity as it is mostly under the control of progovernment or opposition political groups. According to the IREX Media Sustainability Index for 2008, defamation cases focus on the print media “because that is the only sector that is not controlled or, at the least, the only one that the establishment has not been able to control, except by harassment or intimidation.” Electronic media are believed to be absolutely under government control. The advertising market is not free of political influence; even the most popular opposition papers do not enjoy a subsequent share in the advertisement market due to state pressure directing advertising revenues to progovernment outlets. Although official censorship is banned in Azerbaijan, editors exercise heavy self-censorship, dictated by sponsors or fear.

Chap Evi printing house—the only printing facility that has not exercised censorship toward opposition papers—underwent a major tax inspection in 2008 and faced serious financial restrictions that temporarily brought printing to a standstill and forced the printing house to reduce its working capacity. As a result, the printing house ceased all weekend printing, which was used mainly for the Sunday edition of the opposition paper *Yeni Musavat*.

The distribution company Gaya has been seen as the only nationwide newspaper distribution network. However, Gaya now competes with the formerly state-run distribution companies Azermetbuatayimi and Gasid, which have been privatized and are reportedly under the control of Caspi, an organization owned by Ali Hasanov, the department chief of the presidential administration.

Local legislation fails to ensure full transparency of the licensing procedures and independence of the National TV and Radio Council (NTRC). Media watchdogs say the current practice of appointments to this regulatory body does not meet international standards. Furthermore, serious problems exist in licensing electronic media owing to legislative gaps allowing the country’s leadership to restrict independent information sources and grant licenses to progovernment media.

In 2008, Khazar TV acquired a radio broadcasting license competitively, as did the sports channel of AzTV. AzTV Ltd., formerly a state broadcaster, continues to receive support from the state budget despite the government’s Council of Europe obligation to ensure its independence. In December, the NTRC canceled the license of Radio Europa Plus without a court order to do so for broadcasting primarily in the Russian language. Local radio stations are legally required to broadcast in Azerbaijani.

By the end of 2008, NTRC had closed down international radio channels Radio Azadliq (Radio Liberty), BBC, and Voice of America by referring to the necessity of enforcing the Law on TV and Radio Broadcasting adopted in 2002. Without Radio Azadliq, BBC, and Voice of America, the government has almost total control over broadcast media. Legal experts argued that this law includes contradictory clauses and does not require a recall of broadcasting licenses. However, they have suggested that the NTRC was doing the government’s bidding by silencing alternative voices ahead of the constitutional referendum that would lift the ban on presidential third terms.

Media monitoring of presidential election coverage revealed that the majority of media outlets did not maintain the minimum standards of pluralism. Broadcasters restricted their reporting to extensive coverage of the official activities of ruling party ministers and the incumbent president.

Rare cases of Internet filtering were reported in 2008 in Nakhchivan, an exclave region of Azerbaijan. The Web pages of the opposition newspaper *Azadliq* (Freedom), Radio Free Europe/Radio Liberty Azerbaijani service, and the Institute for Reporters Freedom and Safety were not available in Nakhchivan for a short period of time. Overall, the lack of high-speed Internet connections remains a problem not only in regions of Azerbaijan, but in the capital city, Baku, although experts say there have been significant improvements in this field. Using the Internet in Azerbaijan is more expensive than in most other Commonwealth of Independent States countries.

#### Local Democratic Governance

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
n/a	n/a	n/a	n/a	n/a	6.00	6.00	6.00	6.00	6.25

According to the Constitution, local government in Azerbaijan is exercised both through local bodies of state administration and through municipal governments. Local bodies of state administration are regulated by the Constitutional Provision on Local Executive Authority. As part of its commitment to the Council of Europe, Azerbaijan conducted the first municipal elections in the country in 1999. In general, the constitutional provisions on local self-government and the legislation on municipalities comply with principles stated in the European Charter of Local Self-Government, which Azerbaijan ratified in 2001.

Municipal council members are to be elected for a five-year term by secret ballot. Elections are held by a relative majority system in multimandate territories and are considered valid if turnout is more than 25 percent. The number of municipal council members is determined by population size. Despite the Council of Europe's recommendations, the city of Baku is still governed by an executive appointee, not a municipal council. The government resists reforms aimed at creating large, city municipalities in Azerbaijan, especially in Baku, a city with nearly two million inhabitants.

There are several institutional and economic factors leading to the malfunction of municipalities in Azerbaijan. Institutional challenges include excessively centralized public administration; very limited municipal responsibilities; incapacity of the current public administration to effectively manage territories; and lack of criteria for the formation of municipal territories. The creation of 2,735 municipalities resulted in both dispersed resources and unnecessary administrative expenditures: 45 percent of municipalities contain fewer than 1,000 people.

Redefining the status of municipalities did not lead to the required redefinition of their responsibilities. Contradictory legal frameworks prevent a clear division of powers between elected municipal bodies and executive authorities (appointed by the president). Currently, it is impossible to refer to any significant responsibility of local authorities in addressing socioeconomic problems. Various state bodies *de facto* carry out a number of functions assigned to municipalities. Community service projects, renovation activities, registration of local citizens, social services, investing in and improving territories, and environmental and entrepreneurship development in Azerbaijan remain in the sphere of central government represented by executive committees. The real responsibility of municipal authorities in Azerbaijan is, at best, related to the maintenance of municipal roads and social assistance to low-income households not covered by state social programs. Owing to the administrative monopoly held by executive committees, centralized public administration funds are not spent in a transparent and efficient manner, and municipalities fall under the control of the chief of executive committees.

In 2004, following the commitment to the Council of Europe to establish a National Association of Municipalities, Azerbaijan instead created three associations (town, settlement, and village), thereby complicating their cooperation with regional associations in Europe.

Economic challenges facing municipalities include inadequacy of real revenue sources *vis-à-vis* their real expenditure needs; absence of mechanisms for the local taxation and regulation of intragovernmental fiscal relations; and lack of access to financial markets. Municipalities' budgetary indicators and economic development programs are normally not reviewed. Per capita income of an average municipal budget is 2.8 AZN (US\$3.50) (including central government transfers to municipalities). The current share of total municipal income amounts to less than 0.5 percent of the consolidated state budget.<sup>5</sup> Municipalities in Azerbaijan gain regular revenues from selling and leasing one-third of their land. In 2008, a ban was imposed on municipal land sales not carried out by auction, although auction procedures have not been defined. Furthermore, the absence of explicit procedures for transferring state property to municipalities has created considerable confusion. Consequently, this property has not yet been transferred to municipalities.

Legislation aimed at forming local budgets entrusted municipalities with the collection of land and assets taxes for individuals, tax on trade of construction materials, and income tax of legal entities. However, owing to the lack of an effective tax collection mechanism, only 13 percent of municipalities are able to collect more than land taxes.<sup>6</sup>

Legislation empowers citizens to participate in the establishment of local government through a variety of forms, including referendums, assemblies, and the proposal of municipal resolutions. However, inhabitants distrust municipal leadership, and this lack of legitimacy has led to a lack of accountability on the part of municipality officials. Furthermore, owing to the dominance of the executive branch, citizens remain uninformed about municipal election processes.

## Judicial Framework and Independence

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
5.50	5.25	5.25	5.25	5.50	5.75	5.75	5.75	5.75	5.75

The constitution provides legislative ground for an independent judiciary, but in practice judges do not function independently of the executive branch. In 2008, freedoms of expression and assembly were widely restricted. The judiciary remained corrupt, inefficient, and under pressure from the executive branch. Acting upon the instruction of the executive, judges sentenced detainees to jail within hours of their arrest without providing access to a lawyer, despite the legal guarantee of access to a lawyer from the time of detention. In practice, access to lawyers is poor, particularly outside of Baku; in Azerbaijan, there is one lawyer per 12,000 citizens.

The president nominates judges to the Supreme Court and Constitutional Court. On July 4, 2008, the Law on the Constitutional Court was amended to allow judges to remain seated after the expiration of their term until the president appoints their replacements. Although the terms of six out of nine judges expired in July, these six remained in office and approved the presidential election results in October 2008. They also confirmed the amendments proposed by the Parliament majority, one of which envisages lifting the ban on the two-term presidential limit. The same judges were to consider the results of the March 18, 2009, referendum of these amendments. Over the last ten years, these judges have routinely approved election results criticized by election observers as rigged.

Citizens have the right to bring lawsuits seeking damages for, or cessation of, human rights violations. The European Convention for the Protection of Human Rights and Fundamental Freedoms took effect in 2002, giving citizens the right to appeal to the European Court of Human Rights after exhausting domestic appeals. Although the constitution prescribes equal status for prosecutors and defense attorneys, in practice prosecutors' privileges and rights outweigh those of the defense.

The long-delayed trial of Baptist pastor Hamid Shabanov in Zakatala on charges of possessing an illegal weapon continued for several months. These charges carry a maximum penalty of three years in prison. Shabanov's congregation members claim police planted the weapon in the pastor's home to punish him for leading the church. Meanwhile, the lawyer for the Abu-Bekr mosque community, Javanshir Suleymanov, complained of the sudden reversal of a court decision to reopen the mosque for prayers. The mosque was closed after a bomb attack in August left at least two dead and dozens injured. Judge Asif Allahverdiev of Baku's Narimanov District Court ruled that the mosque could reopen on October 27, but reversed this decision on October 31, 2008. According to Suleymanov, the case was due to resume on November 12, 2008.

On July 15, 2008, a court in the Nasimi district of Baku sentenced Sergei Strekalin to 18 months in prison for the March 13 knife attack on *Azadliq* reporter

Agil Khalil. Khalil insisted throughout the trial that Strekalin was not his assailant and that the trial had been staged with the sole aim of discrediting Khalil by presenting the attack as a sex-based revenge. Khalil believes he was severely beaten by two Ministry of National Security officials in February while investigating a land sale case. Miklos Haraszti, the OSCE Representative on Freedom of the Media, commented on the case, saying, “This is the climax of a smear campaign orchestrated by law enforcers against Khalil, his newspaper, and the remnants of critical journalism in Azerbaijan.”<sup>7</sup>

On December 4, the Sabail District Court dismissed a complaint from the Opposition Cooperation Center against Baku City for restricting their right of assembly. City authorities refused to authorize nine opposition rallies in central squares in Baku. The same court dismissed a complaint from Ganimat Zahid, the jailed editor of the newspaper *Azadliq*, against prison officials regarding the seizure of a 300-page manuscript he wrote while in detention. Representatives of Misir Aliyev, chief of the detention center, claim the manuscript was confiscated because of the “antigovernment nature of the writing.” The court declined the attorney’s demand to hear witness testimony from prisoners of Bayil prison and refused to bring Aliyev to court to answer questions regarding the whereabouts of the manuscript.

Throughout 2008, district courts reportedly violated fair trial procedures in cases against local and international oil companies, as revealed through the monitoring of the court trials related to labor rights of oil industry workers by the Organization for Defense of Oil Workers Rights. Yet other monitoring reports noted significant improvement in torture statistics, arbitrary arrests, detentions without trial, searches without warrants, tortures, and abuses practiced throughout 2008.

According to the Institute for Peace and Democracy of Azerbaijan, in 2008 at least three persons died in Azerbaijani police stations in the first hours following their detention.<sup>8</sup>

### Corruption

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
6.00	6.25	6.25	6.25	6.25	6.25	6.25	6.25	6.25	6.50

Corruption is a serious problem in Azerbaijan, but attempts to improve the situation at the legislative level have failed during implementation, as the state agencies entitled to conduct anticorruption activity are believed to be among the most corrupt agencies in the country. The government introduced the National Strategy on Increasing Transparency and Combating Corruption for 2007–2011 at the end of 2007 and made specific amendments to a number of laws in 2008. However, experts believe the government reduced the transparency of its spending during 2008, and implementation of anticorruption measures was not effective.

Azerbaijan's Transparency International Corruption Perceptions Index rating in 2008 worsened from 2.1 to 1.9 (with 1 representing the most and 10 the least corrupt), and the country was ranked 158 among the 180 surveyed (near the bottom of the scale, which signifies the highest level of corruption perception).

Since 2007 the Ministry of Finance has disclosed its semiannual budget implementation reports, which is seen as a step forward in increasing budget transparency. However, overall accessibility of budget information remains low. Azerbaijan was positioned among the "Minimum Accessible Budget Category" in the Open Budget Index produced by the Washington, DC-based International Budget Partnership in its 2006 and 2008 rankings.

The country reports on State Oil Fund revenues under the Extractive Industry Transparency Initiative. However, the use of oil funds for refugee assistance and infrastructure projects remains nontransparent. Through the State Oil Fund, about US\$180 million has been invested into housing projects for Internally Displaced Persons in 2008 without transparent bidding procedures or proper public oversight of the projects. The government remains the main investor in the non-oil sector, the largest sector of the economy that has not yet been opened for privatization.

Access to economic opportunities depend heavily on political loyalty. The "one-stop shop" system for opening a business was introduced at the end of 2007. The government has eased the passport registration system, which has helped to reduce corruption through bureaucracy. However, bureaucracy and legal loopholes are used widely to control economic activities and gain monopolies on different sectors of the economy. Furthermore, private enterprises believe it is impossible to work in Azerbaijan without violating the law.

After the collapse of a newly constructed building in the center of Baku the Ministry of Emergency Situations was entitled to commission all construction works. Media reports suggested that this has led to additional bribes for the Ministry of Emergency Situations. According to some reports, costs of state-funded projects can as much as triple after assessment by Ministry of Emergency Situations officials.

State agencies rarely respond to inquiries from the media and citizens related to procurement bids and control over spending. Declaration of incomes by public officials has been required by law since 2004 but was never implemented in Azerbaijan. The media reports on the proxy ownership of businesses relevant to certain ministers' public service field. The companies related to top officials are winning contracts for procurement and services in large-scale infrastructure projects.

Fifty-eight criminal cases related to corruption were taken to court in 2008 and the government called for a number of arrests, including that of Samir Dadashev, antimonopoly department chief in the Ministry of Economic Development, who allegedly was detained while taking a bribe for 2,000 AZN (US\$2,500). However, Dadashev's case was later dismissed without any explanation. Mahir Nagiyev, a special investigator in the Baku City Office of the Prosecutor, was sentenced to five years' imprisonment for allegedly accepting a bribe while carrying out an

investigation of a close relative of Vice Speaker Arif Rahimzade. During the appeal hearing, Nagiyev claimed to be a victim of an intrigue between law enforcement agencies.

Another allegedly falsified bribery case ended with a six-year prison term for investigative journalist Mushvig Huseynov. Huseynov, a reporter for the newspaper *Bizim Yol*, was arrested for demanding and accepting a bribe. Independent observers of the court trial announced that Huseynov did not demand, but was insistently offered a bribe, adding that Huseynov is the victim of political provocation as part of a campaign carried out by the government to damage the reputation of journalists. Investigative journalist Agil Khalil left the country after being beaten and stabbed because of his investigation of land plot sale corruption in Baku. The land sale case has not been investigated despite the facts he revealed.

Aside from reports in several opposition newspapers and international broadcasters like BBC and RFE/RL, high-level corruption in Azerbaijan does not gain media attention, and electronic media concentrate their reports on low-level abuses. There is no showing of public resistance to abuse and corruption. School officials who demand bribes and students who pay them perpetuate the cycle of corruption in the education system. Protests against corruption are silenced by officials. The hotline for Transparency Azerbaijan receives mostly anonymous complaints of corruption. The Parliament of Azerbaijan has not passed the Law on Protection of Witnesses.

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<sup>1</sup> Statistics supplied by the Central Election Commission.

<sup>2</sup> *Joint Opinion on the Draft Law on Amendments and Changes to the Electoral Code of Azerbaijan* (Venice Commission and OSCE/ODIHR, June 16, 2008).

<sup>3</sup> *Final Report: Results of the Monitoring of the Presidential Election Held in the Republic of Azerbaijan on October 15, 2008* (Baku: EMDS, January 2009).

<sup>4</sup> For example: <http://www.azadliq.org/content/article/1330335.html>; [http://www.rferl.org/content/Azerbaijan\\_Opposition\\_Foul\\_Aliyev\\_Reelected/1330385.html](http://www.rferl.org/content/Azerbaijan_Opposition_Foul_Aliyev_Reelected/1330385.html).

<sup>5</sup> Rovshan Agayev, Azer Mehtiyev, Gubad Ibadoglu, Aydin Aslanov "Strengthening Municipalities in Azerbaijan; Concept Paper," Economic Research Centre; Baku, 2007.

<sup>6</sup> Ibid.

<sup>7</sup> "OSCE Media Freedom Watchdog Calls Baku Trial 'Fake' Aimed to Discredit Opposition Journalist and Protect His Real Attackers," OSCE, July 17, 2008.

<sup>8</sup> Statement of Institute for Peace and Democracy, October 28, 2008.